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INFO RUCNSAD/SOUTHERN AF DEVELOPMENT COMMUNITY COLLECTIVE

UNCLAS SECTION 01 OF 05 MBABANE 000046

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E.O. 12958

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SUBJECT: SWAZILAND: INFORMATION ON CHILD LABOR AND FORCED LABOR IN 2009

REF: State 131997

1. Per reftel request, Post submits responses regarding the use of forced labor and/or exploitive child labor in the production of goods in Swaziland, and government actions to address these issues.

2. In preparing our response, Post conducted interviews and discussions with Labor Commissioner Erickson Dlamini, ILO Project Director for Swaziland (HIV/AIDS) Khombisile Nkonde, Save the Children Manager Mandla Mazibuko, Swaziland Action Group Against Abuse (SWAGAA) Director Cebile Manzini Henwood, Labor Consultant and former Swaziland Federation of Trade Unions President Jan Sithole, and Swaziland Federation of Labor (SFL) President Vincent Ncongwane.

In addition, Post has used the 2008 Program Toward the Elimination of the Worst Forms of Child Labor's (TECL) National Action Plan Towards the Elimination of Child Labor in Swaziland (APEC), which outlines previous studies of child labor, active laws and international accords, and sets forth government and non-governmental (NGO) programs to fight problems associated with child labor.

Task 1: Forced Labor and/or Exploitative Child Labor

3. The Government of the Kingdom of Swaziland (GKOS) prohibits a child, defined as a person under 15 years old, from engaging in any industrial work. A young person, defined as a person over 15 but less than 18, can work, but must receive approval from the Minister of Labor to engage in certain types of industrial work.

4. Although definitive recent studies are not available, Post contacts consistently indicated that forced labor and/or exploitive child labor are not prevalent or significant in the production of goods in Swaziland. Labor inspections, which include child labor issues, though not comprehensive, did not reveal forced labor or exploitive child labor during the year.

Task 2: Worst Forms of Child Labor

5. 2A) Although child labor in domestic service, street vending, and cattle herding is widespread, exploitative labor as defined in reftel is uncommon. The government's National Action Plan Towards the Elimination of Child Labor in Swaziland reported that commercial sexual exploitation of children, children used by adults to commit crime, child trafficking, and cases of very hazardous work are found in the country, although the numbers are relatively low, especially compared to other developing countries. The studies that formed the basis for the document are more than four years old, and no current review exists. Government did not collect or publish data on exploitative child labor in 2009.

7. 2B) Laws and Regulations: In 2009, GKOS passed the People Trafficking and People Smuggling (Prohibition) Act. This law provides a significant improvement in the legal environment surrounding child trafficking and prostitution and sets up stiff penalties for violators. In addition, the law provides for a Task Force, already in existence, to set up a national strategy to combat trafficking. The law was signed into law in December 2009, and Post

will closely monitor whether its initiatives to promote prevention, prosecution, and protection are implemented in 2010.

¶8. Regarding the adequacy of laws and regulations to protect against exploitive child labor, Post concurs with the APEC findings that there are weaknesses and absences in existing laws regarding the child. Definitions of child, right to marriage, sexual exploitation, and child protection lack clarity; some of these would be addressed in the Sexual Offenses and Domestic Violence bill currently in parliament. Swazi law and custom, which prevails over much of rural life, often conflicts with common law in areas pertaining to child labor.

¶9. 2C), Section I: Hazardous Child Labor. Per instructions, answers are keyed to questions numbered 1-14 in reftel.

-1. The Ministry of Labor, Department of Social Welfare under the Deputy Prime Minister's Office, and police services are responsible for enforcement of laws relating to hazardous child labor.

-2. There are no effective mechanisms for exchanging information; implementation of the APEC would enhance interactions on hazardous child labor.

-3. Complaints regarding hazardous child labor can be made to each of the aforementioned entities; no records regarding such complaints were available, and Post does not believe such records are kept.

-4. Funding and resources for inspections has been inadequate, and the Ministry of Labor does not have inspectors specifically to investigate child labor violations.

-5. See response 4.

-6. According to the Principal Secretary of the Ministry of Labor, no specific child labor inspections were conducted in 2009. He indicated that child labor issues are included on the routine labor inspection questionnaire, and that labor inspectors sometimes receive complaints, prompting a review. If child labor violations are discovered, inspectors generally would issue a letter to the

MBABANE 00000046 002 OF 005

owner of the farm or business instructing them to cease and desist. The Labor PS was not aware of how common such letters might be.

-7. No statistics were available on the number of children removed from hazardous work environments, although the number is likely low.

Children rescued under the USDOL Reducing Exploitive Child Labor in Southern Africa through Education program (RECLISA), designed to prevent and withdraw children from the worst forms of child labor, are now fully sponsored by the government of Swaziland.

-8. Post contacts were unaware of any child labor cases opened in ¶2009.

-9. Post contacts were unaware of any child labor cases closed in ¶2009.

-10. Post contacts were unaware of violations found or hazardous child labor convictions in 2009.

-11. There were no data available in 2009 on the length of child labor cases.

-12. Not applicable.

-13. Efforts to focus on exploitive child labor have been stalled along with developments on approving the APEC.

-14. Post contacts were unaware of training for inspectors specifically on hazardous child labor in 2009.

¶10. 2C), Section II: Forced Child Labor. Per instructions, questions are keyed to questions numbered 1-14 in reftel.

-1. The Ministry of Labor, Department of Social Welfare under the Deputy Prime Minister's Office, and police services are responsible for enforcement of laws relating to forced child labor.

-2. There are no effective mechanisms for exchanging information on forced child labor; implementation of APEC would assist in this regard.

-3. Complaints regarding forced child labor can be made to each of the aforementioned entities; no records regarding such complaints were available, and Post does not believe such records are kept.

-4. Funding and resources for inspections has been inadequate, and the Ministry of Labor does not have inspectors assigned specifically

to investigate child labor violations.

-5. See response 4.

-6. According to the Principal Secretary of the Ministry of Labor, no specific child labor inspections were conducted in 2009. He indicated that child labor issues are included on the routine labor inspection questionnaire, and that labor inspectors sometimes receive complaints, prompting a review. If child labor violations are discovered, inspectors generally would issue a letter to the owner of the farm or business instructing them to cease and desist. The Labor PS was not aware of how common such letters might be.

-7. No statistics were available on the number of children removed from forced work environments, although the number is likely low. Children rescued under the USDOL Reducing Exploitive Child Labor in Southern Africa through Education program (RECLISA), designed to prevent and withdraw children from the worst forms of child labor, are now fully sponsored by the government of Swaziland.

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-10. Post contacts were unaware of violations found or forced child labor convictions in 2009.

-11. There was no data available in 2009 on the length of child labor cases.

-12. Not applicable.

-13. Efforts to focus on exploitive child labor have been stalled along with developments on approving the APEC.

-14. Post contacts were unaware of specific training on forced child labor for inspectors in 2009.

11. 2D, Section I: Child trafficking. Per instructions, answers are keyed to questions 1-13 in reftel.

-1. Swaziland did not have agencies or personnel dedicated to the enforcement of child trafficking. Legislation pertaining to child trafficking was enacted into law in December 2009.

-2. No information on funding provided to agencies responsible for investigating child trafficking was available.

MBABANE 00000046 003 OF 005

-3. The Secretariat for the Anti-Human Trafficking Task Force informed Post that GKOS is in the process of setting up a child trafficking hotline, likely housed within the police domestic violence unit, but no such hotline was operational in 2009.

-4. In response to the greater attention child trafficking received in 2009, largely as a result of the threat of U.S. sanctions, police have begun treating missing children's cases as potential trafficking cases. No statistics regarding specific cases were available.

-5. Post is unaware of any resolutions of child trafficking cases in 2009.

-6. No known arrests for trafficking were made in 2009. Legislation specifically outlawing the practice was passed in December 2009.

-7. Post's contacts were unaware of numbers of cases closed or resolved.

-8. Post's contacts were unaware of any convictions.

-9. Not applicable.

-10. Not applicable.

-11. Not applicable.

-12. Post's contacts were unaware of any training offered on child trafficking in 2009. There were, however, public hearings held by the GKOS Anti-Trafficking Task Force in all areas of the country prior to the passage of the new legislation, which along with extensive media coverage has introduced the concept to a wide range of government, business and civil society members.

-13. Swaziland did not experience armed conflict during the reporting period or in the recent past using child soldiers.

¶12. 2D, Section II: Commercial Sexual Exploitation of Children. Per instructions, answers are keyed to questions 1-13 in reftel.

-1. Swaziland did not have agencies or personnel dedicated to the enforcement of CSEC. Legislation including CSEC came into power in December 2009.

-2. No information on funding provided to agencies responsible for investigating SCEC was available.

-3. The Secretariat for the Anti-Trafficking Task Force informed Post that GKOS is in the process of setting up a child trafficking hotline, likely housed within the domestic violence police unit, but no such hotline was operational in 2009. Such a unit would likely include CSEC issues.

-4. No statistics regarding specific cases were available.

-5. Post is unaware of any resolutions of CSEC in 2009.

-6. No arrests were made in 2009. Legislation including CSEC was passed in December 2009.

-7. Post's contacts were unaware of numbers of cases closed or resolved.

-8. Post's contacts were unaware of any convictions.

-9. Not applicable.

-10. Not applicable.

-11. Not applicable.

-12. Post's contacts were unaware of any training offered on CSEC in 2009.

-13. Swaziland did not experience armed conflict during the reporting period or in the recent past using child soldiers.

¶13. 2D, Section III: Use of Children in Illicit Activities. Per instructions, answers are keyed to questions 1-13 in reftel.

-1. Swaziland did not have agencies or personnel dedicated to the enforcement of CSEC.

-2. No information on funding provided to agencies responsible for investigating children used in illicit activities was available.

-3. No hotline for children used in illicit activities exists in

MBABANE 00000046 004 OF 005

Swaziland, although the proposed anti-trafficking hotline likely would cover such issues.

-4. No statistics regarding specific cases were available.

-5. Post is unaware of any resolutions of cases in 2009.

-6. Post is unaware of arrests made in 2009.

-7. Post's contacts were unaware of numbers of cases closed or resolved.

- 8. Post's contacts were unaware of any convictions.
- 9. Not applicable.
- 10. Not applicable.
- 11. Not applicable.
- 12. Post's contacts were unaware of any training offered in 2009.
- 13. Swaziland did not experience armed conflict during the reporting period or in the recent past using child soldiers.

¶14. 2E) Government Policies on Child Labor. Answers are keyed to questions in reftel.

- 1. Government does have a plan that specifically addresses exploitive child labor, but the GKOS did not appear to implement the plan vigorously during 2009.

The Labor Department's Program Advisory Committee on Child Labor has been developing a policy to address child labor and the worst forms of child labor. The committee was created as part of two programs funded by the U.S. Department of Labor, (1) the International Labor Organization's International Program on the Elimination of Child Labor: the Time-Bound Program to Eliminate the Worst Forms of Child Labor (TECL), and (2) the Southern Africa regional child labor project Reducing Exploitive Child Labor through Education in Southern Africa (RECLISA). Both programs include awareness raising and training activities. Meetings were held in various constituencies countrywide, with the community leaders, including chiefs, sensitizing communities about worst forms of child labor. Both programs ended in June 2008.

- 2. Post's contacts were not aware of actions taken in 2009 addressing exploitive child labor within poverty reduction, development, education, or other social policies.
- 3. Not applicable.
- 4. No significant developments on the APEC plans to combat child labor occurred in 2009.
- 5. Through previous education campaigns and attention given to child trafficking in 2009, awareness of the vulnerability of children, including exploitive child labor, grew throughout the year. No specific activities focused on exploitive child labor were known to our contacts.
- 6. Post's contacts were not aware of active commissions or task forces on exploitive child labor, outside of the formation of an effective task force on human trafficking, which has focused government and public attention on the matter.
- 7. Post's government and NGO contacts were not aware of any bilateral, regional, or international agreements to combat trafficking made or signed during the year.

¶15. 2F) Social Programs to Eliminate or Prevent Child Labor: Answers are keyed to questions in reftel.

- 1. Regarding social programs to eliminate or prevent child labor, the RECLISA program was designed to prevent and withdraw children from the worst forms of child labor. All children that were previously funded by the USDOL are now fully sponsored by the government of Swaziland.
- 2. In 2009, Save the Children continued with their community outreach programs, creating community advisory groups focused on child labor issues.
- 3. Post is unaware of government funding of development and educational programs on child labor during 2009, outside of payments under the RECLISA program.
- 4. Post's contacts were unaware of other government non-monetary support to child labor programs.

-5. During 2009 a great deal of government activity focused on human trafficking, in particular trafficking involving children. Government is providing for hotlines and will be implementing the 2009 law, passed in December, during 2010.

-6. Not applicable.

¶16. 2G) CONTINUAL PROGRESS: During 2009 government made a great deal of progress on efforts to combat human trafficking, although much work needs to be done to implement laws and policies enacted. Press reports on the issue reflect a changed environment and understanding of the issue, and the push to pass legislation has also given the Sexual Offenses and Domestic Violence bill new life. Government made little progress, however, on specific plans to combat child labor such as the APEC. Although exploitive child labor is not as high as in some other developing countries, child labor was not a focus of labor inspections, and this is reflected in the lack of prosecutions and convictions.

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